

but has a regular and established place of business, service of process, summons or subpoena upon such defendant may be made upon his agent or agents conducting such business.

(June 25, 1948, ch. 646, 62 Stat. 945.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §109 (Mar. 3, 1911, ch. 231, §48, 36 Stat. 1100).

Venue provisions of section 109 of title 28, U.S.C., 1940 ed., appear in section 1400 of this title.

Changes were made in phraseology.

CROSS REFERENCES

Venue in patent infringement action, see section 1400 of this title.

§ 1695. Stockholder's derivative action

Process in a stockholder's action in behalf of his corporation may be served upon such corporation in any district where it is organized or licensed to do business or is doing business.

(June 25, 1948, ch. 646, 62 Stat. 945.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §112 (Mar. 3, 1911, ch. 231, §51, 36 Stat. 1101; Sept. 19, 1922, ch. 345, 42 Stat. 849; Mar. 4, 1925, ch. 526, §1, 43 Stat. 1264; Apr. 16, 1936, ch. 230, 49 Stat. 1213).

The phrase "is organized or licensed to do business or is doing business" was substituted for the words "resides or is found," as more specific and to conform to section 1391 of this title.

Venue provisions of section 112 of title 28, U.S.C., 1940 ed., appear in section 1391 and 1401 of this title. Other provisions are incorporated in section 1693 of this title.

Changes were made in phraseology.

CROSS REFERENCES

Venue in stockholder's derivative action, see section 1401 of this title.

§ 1696. Service in foreign and international litigation

(a) The district court of the district in which a person resides or is found may order service upon him of any document issued in connection with a proceeding in a foreign or international tribunal. The order may be made pursuant to a letter rogatory issued, or request made, by a foreign or international tribunal or upon application of any interested person and shall direct the manner of service. Service pursuant to this subsection does not, of itself, require the recognition or enforcement in the United States of a judgment, decree, or order rendered by a foreign or international tribunal.

(b) This section does not preclude service of such a document without an order of court.

(Added Pub. L. 88-619, §4(a), Oct. 3, 1964, 78 Stat. 995.)

CHAPTER 115—EVIDENCE; DOCUMENTARY

Sec.

- 1731. Handwriting.
- 1732. Record made in regular course of business; photographic copies.
- 1733. Government records and papers; copies.
- 1734. Court record lost or destroyed generally.¹
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¹ So in original. Does not conform to section catchline.

- 1736. Congressional Journals.
- 1737. Copy of officer's bond.
- 1738. State and Territorial statutes and judicial proceedings; full faith and credit.
- 1738A. Full faith and credit given to child custody determinations.
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- 1743. Demand on postmaster.
- 1744. Copies of United States Patent and Trademark Office documents generally.¹
- 1745. Copies of foreign patent documents.
- 1746. Unsworn declarations under penalty of perjury.

AMENDMENTS

1999—Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(b)(15)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-584, which directed the amendment of item 1744 by substituting "United States Patent and Trademark Office" for "Patent Office", was executed by making the substitution for "patent office" to reflect the probable intent of Congress.

1996—Pub. L. 104-199, §2(b), Sept. 21, 1996, 110 Stat. 2419, added item 1738C.

1994—Pub. L. 103-383, §3(b), Oct. 20, 1994, 108 Stat. 4066, added item 1738B.

1980—Pub. L. 96-611, §8(b), Dec. 28, 1980, 94 Stat. 3571, added item 1738A.

1976—Pub. L. 94-550, §1(b), Oct. 18, 1976, 90 Stat. 2534, added item 1746.

1964—Pub. L. 88-619, §§5(b), 6(b), 7(b), Oct. 3, 1964, 78 Stat. 996, substituted "official documents" for "documents generally; copies" in item 1741, inserted "[Repealed]" in item 1742, and substituted "documents" for "specifications and drawings" in item 1745.

1951—Act Aug. 28, 1951, ch. 351, §2, 65 Stat. 206, inserted "; photographic copies" in item 1732.

1949—Act May 24, 1949, ch. 139, §92(a), 63 Stat. 103, struck out item 1745 "Printed copies of patient specifications and drawings" and renumbered item 1746 as 1745.

FEDERAL RULES OF CIVIL PROCEDURE

Civil cases—

Proof of official record, see rule 44, Appendix to this title.

Subpoena for production of documentary evidence, see rule 45.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal cases—

Proof of official record, see rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

Subpoena for production of documentary evidence, see rule 17.

§ 1731. Handwriting

The admitted or proved handwriting of any person shall be admissible, for purposes of comparison, to determine genuineness of other handwriting attributed to such person.

(June 25, 1948, ch. 646, 62 Stat. 945.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §638 (Feb. 26, 1913, ch. 79, 37 Stat. 683).

Words "as a basis for comparison by witnesses, or by the jury, court, or officer conducting such proceeding", were omitted as superfluous.

Changes were made in phraseology.

FEDERAL RULES OF CIVIL PROCEDURE

Evidence, civil actions, see rule 43, Appendix to this title.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal proceedings, see rule 26, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1732. Record made in regular course of business; photographic copies

If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence, or event, and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement, or facsimile does not preclude admission of the original. This subsection shall not be construed to exclude from evidence any document or copy thereof which is otherwise admissible under the rules of evidence.

(June 25, 1948, ch. 646, 62 Stat. 945; Aug. 28, 1951, ch. 351, §§1, 3, 65 Stat. 205, 206; Pub. L. 87-183, Aug. 30, 1961, 75 Stat. 413; Pub. L. 93-595, §2(b), Jan. 2, 1975, 88 Stat. 1949.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §695 (June 20, 1936, ch. 640, §1, 49 Stat. 1561).

Changes in phraseology were made.

AMENDMENTS

1975—Pub. L. 93-595 struck out subsec. (a) which had made admissible as evidence writings or records made as a memorandum or record of any act, transaction, occurrence, or event if made in the regular course of business, and struck out designation “(b)” preceding remainder of section. See Federal Rules of Evidence set out in Appendix to this title.

1961—Subsec. (b). Pub. L. 87-183 struck out “unless held in a custodial or fiduciary capacity or” after “may be destroyed in the regular course of business”.

1951—Act Aug. 29, 1951, §3, inserted reference to photographic copies in section catchline.

Subsecs. (a), (b). Act Aug. 28, 1951, §1, designated existing provisions as subsec. (a) and added subsec. (b).

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see rule 44, Appendix to this title.

Effect of rule 44 on former section 695 of this title, see note by Advisory Committee under rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proof of official records, see rule 27 and note of the Advisory Committee under rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 5555.

§ 1733. Government records and papers; copies

(a) Books or records of account or minutes of proceedings of any department or agency of the United States shall be admissible to prove the act, transaction or occurrence as a memorandum of which the same were made or kept.

(b) Properly authenticated copies or transcripts of any books, records, papers or documents of any department or agency of the United States shall be admitted in evidence equally with the originals thereof.

(c) This section does not apply to cases, actions, and proceedings to which the Federal Rules of Evidence apply.

(June 25, 1948, ch. 646, 62 Stat. 946; Pub. L. 93-595, §2(c), Jan. 2, 1975, 88 Stat. 1949.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§661-667, 671 (R.S. §§882-886, 889; July 31, 1894, ch. 174, §§17, 22, 28 Stat. 210; Mar. 2, 1895, ch. 177, §10, 28 Stat. 809; June 10, 1921, ch. 18, §§301, 302, 304, 310, 42 Stat. 23-25; May 10, 1934, ch. 277, §512, 48 Stat. 758; June 19, 1934, ch. 653, §6(a), 48 Stat. 1109).

The consolidation of sections 661-667 and 671 of title 28, U.S.C., 1940 ed., permitted omission of obsolete, unnecessary and repetitive provisions in such sections. For example, the provision in section 665 of title 28, U.S.C., 1940 ed., authorizing the court to require production of documents on a plea of non est factum, was omitted. Such plea is obsolete in Federal practice.

Numerous provisions with respect to authentication were omitted as covered by Rule 44 of the Federal Rules of Civil Procedure.

Likewise the provision that official seals shall be judicially noticed was omitted as unnecessary. Seals of Federal agencies are judicially noticed by States and Federal courts without statutory mandate. *Gardner v. Barney*, 1867, 6 Wall. 499, 73 U.S.C. 499, 18 L.Ed. 890, 31 C.J.S. 599 n. 27-30 and 23 C.J.S. 99 n. 41. The same principle unquestionably will apply to seals of Government corporations.

Words “of any corporation all the stock of which is beneficially owned by the United States, either directly or indirectly”, in section 661 of title 28, U.S.C., 1940 ed., were omitted as covered by “or agency”. The revised section was broadened to apply to “any department or agency”. (See reviser’s note under section 1345 of this title.)

Changes were made in phraseology.

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (c), are set out in the Appendix to this title.

AMENDMENTS

1975—Subsec. (c). Pub. L. 93-595 added subsec. (c).

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official record, see rule 44, Appendix to this title.

Subpoena for production of documentary evidence, see rule 45.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proof of official record, see rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

Subpoena for production of documentary evidence, see rule 17.

CROSS REFERENCES

Authenticated and certified copy of Government record by Archivist admissible in evidence, see section 2116 of Title 44, Public Printing and Documents.

Authentication—

Copies of documents, etc., in the office of the Commissioner of Indian Affairs is made by section 6 of Title 25, Indians.

Original papers on file in the Bureau of Land Management are provided for by section 13 of Title 43, Public Lands.

Records by Secretary of the Interior, see section 1460 of Title 43.

Records of the Postal Service, see section 207 of Title 39, Postal Service.

Certified copies of schedules and tariffs of rates, etc., copies as evidence, see section 10303 of Title 49, Transportation.

Judicial notice of seals—

Departments of Commerce and Labor, see sections 1501 of Title 15, Commerce and Trade, and 551 of Title 29, Labor.

Department of Defense, see section 112 of Title 10, Armed Forces.

Departments of the Army, Air Force, and Navy, see sections 3012, 5012, and 8012 of Title 10.

Provisions relating to the requisites of the certificates of national banks, and the acknowledgment and filing thereof, are made by sections 22 and 23 of Title 12, Banks and Banking.

Secretary of the Interior is authorized to furnish transcripts of records in district land offices for individuals, and such transcripts, when duly certified, are made admissible as evidence by section 83 of Title 43, Public Lands.

Verification of official documents by Secretary of Agriculture, see section 2203 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 704.

§ 1734. Court record lost or destroyed, generally

(a) A lost or destroyed record of any proceeding in any court of the United States may be supplied on application of any interested party not at fault, by substituting a copy certified by the clerk of any court in which an authentic copy is lodged.

(b) Where a certified copy is not available, any interested person not at fault may file in such court a verified application for an order establishing the lost or destroyed record.

Every other interested person shall be served personally with a copy of the application and with notice of hearing on a day stated, not less than sixty days after service. Service may be made on any nonresident of the district anywhere within the jurisdiction of the United States or in any foreign country.

Proof of service in a foreign country shall be certified by a minister or consul of the United States in such country, under his official seal.

If, after the hearing, the court is satisfied that the statements contained in the application are true, it shall enter an order reciting the substance and effect of the lost or destroyed record. Such order, subject to intervening rights of third persons, shall have the same effect as the original record.

(June 25, 1948, ch. 646, 62 Stat. 946.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 681, 682, 683, and 684 (R.S. §§ 899, 900, 901, 902; Jan. 31, 1879, ch. 39, § 1, 20 Stat. 277).

Sections 681, 682, and 684 of title 28, U.S.C., 1940 ed., contained repetitious language which was eliminated by the consolidation.

Section 683 of title 28, U.S.C., 1940 ed., applied only to cases removed to the Supreme Court, and was revised

so as to be applicable to cases transmitted to other courts not in existence in 1871 when the section was originally enacted.

Changes were made in phraseology.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of rule 44 on former section 681 of this title, see note by Advisory Committee under rule 44, Appendix to this title.

Proof of official records, see rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proof of official records, see rule 27, and note of the Advisory Committee under rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1735. Court record lost or destroyed where United States interested

(a) When the record of any case or matter in any court of the United States to which the United States is a party, is lost or destroyed, a certified copy of any official paper of a United States attorney, United States marshal or clerk or other certifying or recording officer of any such court, made pursuant to law, on file in any department or agency of the United States and relating to such case or matter, shall, on being filed in the court to which it relates, have the same effect as an original paper filed in such court. If the copy so filed discloses the date and amount of a judgment or decree and the names of the parties thereto, the court may enforce the judgment or decree as though the original record had not been lost or destroyed.

(b) Whenever the United States is interested in any lost or destroyed records or files of a court of the United States, the clerk of such court and the United States attorney for the district shall take the steps necessary to restore such records or files, under the direction of the judges of such court.

(June 25, 1948, ch. 646, 62 Stat. 946.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 685, 686 (R.S. §§ 903, 904; Jan. 31, 1879, ch. 39, §§ 2, 3, 20 Stat. 277).

A provision of section 686 of title 28, U.S.C., 1940 ed., relating to allowances to clerks and United States attorneys for their services, and disbursements incidental to restoring lost records under such section was deleted as obsolete, in view of sections 508, 509, and 604 of this title, placing such officers on a salary basis and providing for their expenses.

Words "And in all cases where any of the files, papers, or records of any court of the United States have been or shall be lost or destroyed, the files, records and papers which, pursuant to law, may have been or may be restored or supplied in place of such records, files, and papers, shall have the same force and effect, to all intents and purposes, as the originals thereof would have been entitled to," at the end of section 685 of title 28, U.S.C., 1940 ed., were omitted as fully covered by the remainder of this section and by section 1734 of this title.

Words "or agency of the United States" were substituted for "of the Government" so as to eliminate any possible ambiguity as to the scope of this section. See definitive section 451 of this title.

The phrase "so far as the judges of such courts respectively shall deem it essential to the interests of the United States that such records and files be restored or supplied," was omitted as unnecessary.

Changes were made in phraseology.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see rule 44, Appendix to this title.

Effect of rule 44 on former section 685 of this title, see note by Advisory Committee under rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proof of official records, see rule 27, and note of the Advisory Committee under rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1736. Congressional Journals

Extracts from the Journals of the Senate and the House of Representatives, and from the Executive Journal of the Senate when the injunction of secrecy is removed, certified by the Secretary of the Senate or the Clerk of the House of Representatives shall be received in evidence with the same effect as the originals would have.

(June 25, 1948, ch. 646, 62 Stat. 947.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 676 (R.S. § 895). Changes in phraseology were made.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see rule 44, Appendix to this title.

Effect of rule 44 on former section 676 of this title, see note by Advisory Committee under rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proof of official records, see rule 27, and note of the Advisory Committee under rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1737. Copy of officer's bond

Any person to whose custody the bond of any officer of the United States has been committed shall, on proper request and payment of the fee allowed by any Act of Congress, furnish certified copies thereof, which shall be prima facie evidence in any court of the execution, filing and contents of the bond.

(June 25, 1948, ch. 646, 62 Stat. 947.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 326, 499, 513, and 514 (R.S. §§ 783, 795; Feb. 22, 1875, ch. 95, § 3, 18 Stat. 333; Mar. 3, 1911, ch. 231, §§ 220, 291, 36 Stat. 1152, 1167).

Sections 326, 499, 513, and 514 of title 28, U.S.C., 1940 ed., were consolidated. They related to the bonds of particular officers, namely the Clerk of the Supreme Court, the United States marshals, and the clerks of the district courts. The revised section eliminates all inconsistent provisions of such sections.

The requirement that certified copies be furnished is new.

The other provisions of sections 326, 499, 513, and 514 of title 28, U.S.C., 1940 ed., are now incorporated in sections 544 and 952 of this title.

Changes were made in phraseology.

§ 1738. State and Territorial statutes and judicial proceedings; full faith and credit

The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be authenticated by affixing the seal of such State, Territory or Possession thereto.

The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its

Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.

Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.

(June 25, 1948, ch. 646, 62 Stat. 947.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 687 (R.S. § 905).

Words "Possession of the United States" were substituted for "of any country subject to the jurisdiction of the United States".

Words "or copies thereof" were added in three places. Copies have always been used to prove statutes and judicial proceedings under section 687 of title 28, U.S.C., 1940 ed. The added words will cover expressly such use.

Words "and its Territories and Possessions" were added in two places so as to make this section and section 1739 of this title uniform, the basic section of the latter having provided that nonjudicial records or books of any State, Territory, or "country subject to the jurisdiction of the United States" should be admitted in any court or office in any other State, Territory, or "such country."

Words "a judge of the court" were substituted for "the judge, chief justice or presiding magistrate" without change of substance.

At the beginning of the last paragraph, words "Such Acts" were substituted for "And the said". This follows the language of Article IV, section 1 of the Constitution.

For additional provisions as to authentication, see Rule 44 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

FEDERAL RULES OF CIVIL PROCEDURE

Authentication of copy of official record, see rule 44, Appendix to this title.

Effect of rule 44 on former section 687 of this title, see note by Advisory Committee under rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal cases, proof of official record, see rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

CROSS REFERENCES

Full faith and credit, see Const., art. 4, § 1.

§ 1738A. Full faith and credit given to child custody determinations

(a) The appropriate authorities of every State shall enforce according to its terms, and shall not modify except as provided in subsections (f), (g), and (h) of this section, any custody determination or visitation determination made consistently with the provisions of this section by a court of another State.

(b) As used in this section, the term—

(1) "child" means a person under the age of eighteen;

(2) "contestant" means a person, including a parent or grandparent, who claims a right to custody or visitation of a child;

(3) "custody determination" means a judgment, decree, or other order of a court providing for the custody of a child, and includes permanent and temporary orders, and initial orders and modifications;

(4) “home State” means the State in which, immediately preceding the time involved, the child lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old, the State in which the child lived from birth with any of such persons. Periods of temporary absence of any of such persons are counted as part of the six-month or other period;

(5) “modification” and “modify” refer to a custody or visitation determination which modifies, replaces, supersedes, or otherwise is made subsequent to, a prior custody or visitation determination concerning the same child, whether made by the same court or not;

(6) “person acting as a parent” means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

(7) “physical custody” means actual possession and control of a child;

(8) “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States; and

(9) “visitation determination” means a judgment, decree, or other order of a court providing for the visitation of a child and includes permanent and temporary orders and initial orders and modifications.

(c) A child custody or visitation determination made by a court of a State is consistent with the provisions of this section only if—

(1) such court has jurisdiction under the law of such State; and

(2) one of the following conditions is met:

(A) such State (i) is the home State of the child on the date of the commencement of the proceeding, or (ii) had been the child’s home State within six months before the date of the commencement of the proceeding and the child is absent from such State because of his removal or retention by a contestant or for other reasons, and a contestant continues to live in such State;

(B)(i) it appears that no other State would have jurisdiction under subparagraph (A), and (ii) it is in the best interest of the child that a court of such State assume jurisdiction because (I) the child and his parents, or the child and at least one contestant, have a significant connection with such State other than mere physical presence in such State, and (II) there is available in such State substantial evidence concerning the child’s present or future care, protection, training, and personal relationships;

(C) the child is physically present in such State and (i) the child has been abandoned, or (ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse;

(D)(i) it appears that no other State would have jurisdiction under subparagraph (A), (B), (C), or (E), or another State has declined to exercise jurisdiction on the ground that the State whose jurisdiction is in issue is the more appropriate forum to determine the

custody or visitation of the child, and (ii) it is in the best interest of the child that such court assume jurisdiction; or

(E) the court has continuing jurisdiction pursuant to subsection (d) of this section.

(d) The jurisdiction of a court of a State which has made a child custody or visitation determination consistently with the provisions of this section continues as long as the requirement of subsection (c)(1) of this section continues to be met and such State remains the residence of the child or of any contestant.

(e) Before a child custody or visitation determination is made, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of a child.

(f) A court of a State may modify a determination of the custody of the same child made by a court of another State, if—

(1) it has jurisdiction to make such a child custody determination; and

(2) the court of the other State no longer has jurisdiction, or it has declined to exercise such jurisdiction to modify such determination.

(g) A court of a State shall not exercise jurisdiction in any proceeding for a custody or visitation determination commenced during the pendency of a proceeding in a court of another State where such court of that other State is exercising jurisdiction consistently with the provisions of this section to make a custody or visitation determination.

(h) A court of a State may not modify a visitation determination made by a court of another State unless the court of the other State no longer has jurisdiction to modify such determination or has declined to exercise jurisdiction to modify such determination.

(Added Pub. L. 96-611, §8(a), Dec. 28, 1980, 94 Stat. 3569; amended Pub. L. 105-374, §1, Nov. 12, 1998, 112 Stat. 3383.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-374, §1(a), substituted “subsections (f), (g), and (h) of this section, any custody determination or visitation determination” for “subsection (f) of this section, any child custody determination”.

Subsec. (b)(2). Pub. L. 105-374, §1(b), inserted “or grandparent” after “parent”.

Subsec. (b)(3). Pub. L. 105-374, §1(c), struck out “or visitation” after “for the custody”.

Subsec. (b)(5). Pub. L. 105-374, §1(d), substituted “custody or visitation determination” for “custody determination” in two places.

Subsec. (b)(9). Pub. L. 105-374, §1(e), added par. (9).

Subsec. (c). Pub. L. 105-374, §1(f), substituted “custody or visitation determination” for “custody determination” in introductory provisions.

Subsec. (c)(2)(D)(i). Pub. L. 105-374, §1(g), inserted “or visitation” after “determine the custody”.

Subsecs. (d), (e). Pub. L. 105-374, §1(h), (i), substituted “custody or visitation determination” for “custody determination”.

Subsec. (g). Pub. L. 105-374, §1(j), which directed substitution of “custody or visitation determination” for “custody determination”, was executed by making the substitution in two places to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 105-374, §1(k), added subsec. (h).

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 7 of Pub. L. 96-611 provided that:

“(a) The Congress finds that—

“(1) there is a large and growing number of cases annually involving disputes between persons claiming rights of custody and visitation of children under the laws, and in the courts, of different States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

“(2) the laws and practices by which the courts of those jurisdictions determine their jurisdiction to decide such disputes, and the effect to be given the decisions of such disputes by the courts of other jurisdictions, are often inconsistent and conflicting;

“(3) those characteristics of the law and practice in such cases, along with the limits imposed by a Federal system on the authority of each such jurisdiction to conduct investigations and take other actions outside its own boundaries, contribute to a tendency of parties involved in such disputes to frequently resort to the seizure, restraint, concealment, and interstate transportation of children, the disregard of court orders, excessive relitigation of cases, obtaining of conflicting orders by the courts of various jurisdictions, and interstate travel and communication that is so expensive and time consuming as to disrupt their occupations and commercial activities; and

“(4) among the results of those conditions and activities are the failure of the courts of such jurisdictions to give full faith and credit to the judicial proceedings of the other jurisdictions, the deprivation of rights of liberty and property without due process of law, burdens on commerce among such jurisdictions and with foreign nations, and harm to the welfare of children and their parents and other custodians.

“(b) For those reasons it is necessary to establish a national system for locating parents and children who travel from one such jurisdiction to another and are concealed in connection with such disputes, and to establish national standards under which the courts of such jurisdictions will determine their jurisdiction to decide such disputes and the effect to be given by each such jurisdiction to such decisions by the courts of other such jurisdictions.

“(c) The general purposes of sections 6 to 10 of this Act [enacting this section and section 663 of Title 42, The Public Health and Welfare, amending sections 654 and 655 Title 42, and enacting provisions set out as notes under this section, sections 663 and 1305 of Title 42, and section 1073 of Title 18, Crimes and Criminal Procedure] are to—

“(1) promote cooperation between State courts to the end that a determination of custody and visitation is rendered in the State which can best decide the case in the interest of the child;

“(2) promote and expand the exchange of information and other forms of mutual assistance between States which are concerned with the same child;

“(3) facilitate the enforcement of custody and visitation decrees of sister States;

“(4) discourage continuing interstate controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

“(5) avoid jurisdictional competition and conflict between State courts in matters of child custody and visitation which have in the past resulted in the shifting of children from State to State with harmful effects on their well-being; and

“(6) deter interstate abductions and other unilateral removals of children undertaken to obtain custody and visitation awards.”

STATE COURT PROCEEDINGS FOR CUSTODY DETERMINATIONS; PRIORITY TREATMENT; FEES, COSTS, AND OTHER EXPENSES

Section 8(c) of Pub. L. 96-611 provided that: “In furtherance of the purposes of section 1738A of title 28,

United States Code, as added by subsection (a) of this section, State courts are encouraged to—

“(1) afford priority to proceedings for custody determinations; and

“(2) award to the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, necessary travel expenses, attorneys’ fees, costs of private investigations, witness fees or expenses, and other expenses incurred in connection with such custody determination in any case in which—

“(A) a contestant has, without the consent of the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, (i) wrongfully removed the child from the physical custody of such person, or (ii) wrongfully retained the child after a visit or other temporary relinquishment of physical custody; or

“(B) the court determines it is appropriate.”

§ 1738B. Full faith and credit for child support orders

(a) GENERAL RULE.—The appropriate authorities of each State—

(1) shall enforce according to its terms a child support order made consistently with this section by a court of another State; and

(2) shall not seek or make a modification of such an order except in accordance with subsections (e), (f), and (i).

(b) DEFINITIONS.—In this section:

“child” means—

(A) a person under 18 years of age; and

(B) a person 18 or more years of age with respect to whom a child support order has been issued pursuant to the laws of a State.

“child’s State” means the State in which a child resides.

“child’s home State” means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.

“child support” means a payment of money, continuing support, or arrearages or the provision of a benefit (including payment of health insurance, child care, and educational expenses) for the support of a child.

“child support order” means—

(A) means a judgment, decree, or order of a court requiring the payment of child support in periodic amounts or in a lump sum; and

(B) includes—

(i) a permanent or temporary order; and

(ii) an initial order or a modification of an order.

“contestant” means—

(A) a person (including a parent) who—

(i) claims a right to receive child support;

(ii) is a party to a proceeding that may result in the issuance of a child support order; or

(iii) is under a child support order; and

(B) a State or political subdivision of a State to which the right to obtain child support has been assigned.

“court” means a court or administrative agency of a State that is authorized by State law to establish the amount of child support payable by a contestant or make a modification of a child support order.

“modification” means a change in a child support order that affects the amount, scope, or duration of the order and modifies, replaces, supersedes, or otherwise is made subsequent to the child support order.

“State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country (as defined in section 1151 of title 18).

(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—A child support order made by a court of a State is made consistently with this section if—

(1) a court that makes the order, pursuant to the laws of the State in which the court is located and subsections (e), (f), and (g)—

(A) has subject matter jurisdiction to hear the matter and enter such an order; and

(B) has personal jurisdiction over the contestants; and

(2) reasonable notice and opportunity to be heard is given to the contestants.

(d) CONTINUING JURISDICTION.—A court of a State that has made a child support order consistently with this section has continuing, exclusive jurisdiction over the order if the State is the child’s State or the residence of any individual contestant unless the court of another State, acting in accordance with subsections (e) and (f), has made a modification of the order.

(e) AUTHORITY TO MODIFY ORDERS.—A court of a State may modify a child support order issued by a court of another State if—

(1) the court has jurisdiction to make such a child support order pursuant to subsection (i); and

(2)(A) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because that State no longer is the child’s State or the residence of any individual contestant; or

(B) each individual contestant has filed written consent with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume continuing, exclusive jurisdiction over the order.

(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

(1) If only 1 court has issued a child support order, the order of that court must be recognized.

(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continu-

ing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court having jurisdiction over the parties shall issue a child support order, which must be recognized.

(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction under subsection (d).

(g) ENFORCEMENT OF MODIFIED ORDERS.—A court of a State that no longer has continuing, exclusive jurisdiction of a child support order may enforce the order with respect to nonmodifiable obligations and unsatisfied obligations that accrued before the date on which a modification of the order is made under subsections (e) and (f).

(h) CHOICE OF LAW.—

(1) IN GENERAL.—In a proceeding to establish, modify, or enforce a child support order, the forum State’s law shall apply except as provided in paragraphs (2) and (3).

(2) LAW OF STATE OF ISSUANCE OF ORDER.—In interpreting a child support order including the duration of current payments and other obligations of support, a court shall apply the law of the State of the court that issued the order.

(3) PERIOD OF LIMITATION.—In an action to enforce arrears under a child support order, a court shall apply the statute of limitation of the forum State or the State of the court that issued the order, whichever statute provides the longer period of limitation.

(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.

(Added Pub. L. 103-383, §3(a), Oct. 20, 1994, 108 Stat. 4064; amended Pub. L. 104-193, title III, §322, Aug. 22, 1996, 110 Stat. 2221; Pub. L. 105-33, title V, §5554, Aug. 5, 1997, 111 Stat. 636.)

AMENDMENTS

1997—Subsec. (f)(4). Pub. L. 105-33, §5554(1), substituted “a court having jurisdiction over the parties shall issue a child support order, which must be recognized.” for “a court may issue a child support order, which must be recognized.”

Subsec. (f)(5). Pub. L. 105-33, §5554(2), inserted “under subsection (d)” after “jurisdiction”.

1996—Subsec. (a)(2). Pub. L. 104-193, §322(1), substituted “subsections (e), (f), and (i)” for “subsection (e)”.

Subsec. (b). Pub. L. 104-193, §322(2), inserted par. defining “child’s home State”.

Subsec. (c). Pub. L. 104-193, §322(3), inserted “by a court of a State” before “is made” in introductory provisions.

Subsec. (c)(1). Pub. L. 104-193, §322(4), inserted “and subsections (e), (f), and (g)” after “located”.

Subsec. (d). Pub. L. 104-193, §322(5), inserted “individual” before “contestant” and substituted “subsections (e) and (f)” for “subsection (e)”.

Subsec. (e). Pub. L. 104-193, §322(6), substituted “modify a child support order issued” for “make a modification of a child support order with respect to a child that is made” in introductory provisions.

Subsec. (e)(1). Pub. L. 104-193, §322(7), inserted “pursuant to subsection (i)” after “order”.

Subsec. (e)(2). Pub. L. 104-193, §322(8), inserted “individual” before “contestant” in subpars. (A) and (B) and substituted “with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume” for “to that court’s making the modification and assuming” in subpar. (B).

Subsec. (f). Pub. L. 104-193, §322(10), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 104-193, §322(11), substituted “Modified” for “Prior” in heading and “subsections (e) and (f)” for “subsection (e)” in text.

Pub. L. 104-193, §322(9), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 104-193, §322(12), inserted “including the duration of current payments and other obligations of support” before comma in par. (2) and “arrearages under” after “enforce” in par. (3).

Pub. L. 104-193, §322(9), redesignated subsec. (g) as (h).

Subsec. (i). Pub. L. 104-193, §322(13), added subsec. (i).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in enactment of title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5557 of Pub. L. 105-33, set out as a note under section 608 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date of amendment by Pub. L. 104-193, see section 395(a)–(c) of Pub. L. 104-193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 103-383 provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) there is a large and growing number of child support cases annually involving disputes between parents who reside in different States;

“(2) the laws by which the courts of different jurisdictions determine their authority to establish child support orders are not uniform;

“(3) those laws, along with the limits imposed by the Federal system on the authority of each State to take certain actions outside its own boundaries—

“(A) encourage noncustodial parents to relocate outside the States where their children and the custodial parents reside to avoid the jurisdiction of the courts of such States, resulting in an increase in the amount of interstate travel and communication required to establish and collect on child support orders and a burden on custodial parents that is expensive, time consuming, and disruptive of occupations and commercial activity;

“(B) contribute to the pressing problem of relatively low levels of child support payments in interstate cases and to inequities in child support payments levels that are based solely on the noncustodial parent’s choice of residence;

“(C) encourage a disregard of court orders resulting in massive arrearages nationwide;

“(D) allow noncustodial parents to avoid the payment of regularly scheduled child support payments for extensive periods of time, resulting in substantial hardship for the children for whom support is due and for their custodians; and

“(E) lead to the excessive relitigation of cases and to the establishment of conflicting orders by the courts of various jurisdictions, resulting in confusion, waste of judicial resources, disrespect for the courts, and a diminution of public confidence in the rule of law; and

“(4) among the results of the conditions described in this subsection are—

“(A) the failure of the courts of the States to give full faith and credit to the judicial proceedings of the other States;

“(B) the deprivation of rights of liberty and property without due process of law;

“(C) burdens on commerce among the States; and

“(D) harm to the welfare of children and their parents and other custodians.

“(b) STATEMENT OF POLICY.—In view of the findings made in subsection (a), it is necessary to establish national standards under which the courts of the various States shall determine their jurisdiction to issue a child support order and the effect to be given by each State to child support orders issued by the courts of other States.

“(c) PURPOSES.—The purposes of this Act [enacting this section and provisions set out as a note under section 1 of this title] are—

“(1) to facilitate the enforcement of child support orders among the States;

“(2) to discourage continuing interstate controversies over child support in the interest of greater financial stability and secure family relationships for the child; and

“(3) to avoid jurisdictional competition and conflict among State courts in the establishment of child support orders.”

§ 1738C. Certain acts, records, and proceedings and the effect thereof

No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.

(Added Pub. L. 104-199, §2(a), Sept. 21, 1996, 110 Stat. 2419.)

§ 1739. State and Territorial nonjudicial records; full faith and credit

All nonjudicial records or books kept in any public office of any State, Territory, or Possession of the United States, or copies thereof, shall be proved or admitted in any court or office in any other State, Territory, or Possession by the attestation of the custodian of such records or books, and the seal of his office annexed, if there be a seal, together with a certificate of a judge of a court of record of the county, parish, or district in which such office may be kept, or of the Governor, or secretary of state, the chancellor or keeper of the great seal, of the State, Territory, or Possession that the said attestation is in due form and by the proper officers.

If the certificate is given by a judge, it shall be further authenticated by the clerk or prothonotary of the court, who shall certify, under his hand and the seal of his office, that such judge is duly commissioned and qualified; or, if given by such Governor, secretary, chancellor, or keeper of the great seal, it shall be under the

great seal of the State, Territory, or Possession in which it is made.

Such records of books, or copies thereof, so authenticated, shall have the same full faith and credit in every court and office within the United States and its Territories and Possessions as they have by law or usage in the courts or offices of the State, Territory, or Possession from which they are taken.

(June 25, 1948, ch. 646, 62 Stat. 947.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 688 (R.S. § 906).

Words "Possession of the United States" were substituted for "or any country subject to the jurisdiction of the United States."

Words "or copies thereof" were added in two places. Copies have always been used to prove records and books under section 688 of title 28, U.S.C., 1940 ed., and the addition of these words clarifies the former implied meaning of such section.

In the first paragraph of the revised section words "a judge of a court of record" were substituted for words "the presiding justice of the court" and in the second paragraph "judge" was substituted for "presiding justice" for convenience and without change of substance.

Words "and its Territories and Possessions" were added after "United States", near the end of the section, in view of provisions of section 688 of title 28, U.S.C., 1940 ed., for the admission of records and books in any court or office in any other State, Territory, or "in any such country." (Changed to "Possession" in this section.)

See also Rule 44 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

FEDERAL RULES OF CIVIL PROCEDURE

Authentication of copy of official record, see rule 44, Appendix to this title.

Effect of rule 44 on former section 688 of this title, see note by Advisory Committee under rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal cases, proof of official record, see rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1740. Copies of consular papers

Copies of all official documents and papers in the office of any consul or vice consul of the United States, and of all official entries in the books or records of any such office, authenticated by the consul or vice consul, shall be admissible equally with the originals.

(June 25, 1948, ch. 646, 62 Stat. 947.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 677 (R.S. § 896; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100).

Words "authenticated by the consul or vice consul" were substituted for "certified under the hand and seal of such officer", for clarity. Words "in the courts of the United States", were omitted after "admissible". Such papers should be so admitted in all courts consistently with sections 1738 and 1739 of this title.

See also Rule 44 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

FEDERAL RULES OF CIVIL PROCEDURE

Authentication of copy of official record see rule 44, Appendix to this title.

Effect of rule 44 on former section 677 of this title, see note by Advisory Committee under rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal cases, proof of official record, see rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1741. Foreign official documents

An official record or document of a foreign country may be evidenced by a copy, summary, or excerpt authenticated as provided in the Federal Rules of Civil Procedure.

(June 25, 1948, ch. 646, 62 Stat. 948; May 24, 1949, ch. 139, § 92(b), 63 Stat. 103; Pub. L. 88-619, § 5(a), Oct. 3, 1964, 78 Stat. 996.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., § 695e (June 20, 1936, ch. 640, § 6, 49 Stat. 1563).

Words "Nothing contained in this section shall be deemed to alter, amend, or repeal section 689 of this title," at the end of section 695e of title 28, U.S.C., 1940 ed., were omitted. Although significant in the original Act, such words are unnecessary in a revision wherein both sections in question, as revised, are enacted at the same time.

See also Rule 44 of the Federal Rules of Civil Procedure.

Section 695e-1 of title 28, U.S.C., 1940 ed., providing for certification of Vatican City Documents will be incorporated in title 22, U.S.C., Foreign Relations and Intercourse.

Changes were made in phraseology.

1949 ACT

This section corrects a typographical error in section 1741 of title 28, U.S.C.

AMENDMENTS

1964—Pub. L. 88-619 substituted "An official record or document of a foreign country may be evidenced by a copy, summary, or excerpt authenticated as provided in the Federal Rules of Civil Procedure" for "A copy of any foreign document of record or on file in a public office of a foreign country or political subdivision thereof, certified by the lawful custodian thereof, shall be admissible in evidence when authenticated by a certificate of a consular officer of the United States resident in such foreign country, under the seal of his office, that the copy has been certified by the lawful custodian" in text, and "official documents" for "documents, generally; copies" in section catchline.

1949—Act May 24, 1949, corrected spelling of "admissible".

FEDERAL RULES OF CIVIL PROCEDURE

Authentication of copy of official record, see rule 44, Appendix to this title.

Effect of rule 44 on former section 695e of this title, see note by Advisory Committee under rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal cases, proof of official record, see rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 1204, 4222.

[§ 1742. Repealed. Pub. L. 88-619, § 6(a), Oct. 3, 1964, 78 Stat. 996]

Section, act June 25, 1948, ch. 646, 62 Stat. 948, related to authentication and certification of copies of documents relating to land titles, by persons having custody of such of any foreign government or its agents, certification by an American minister or consul that they be true copies of the originals, the recording of such copies in the office of the General Counsel for the Department of the Treasury, and to the evidentiary value of such copies.

§ 1743. Demand on postmaster

The certificate of the Postmaster General or the General Accounting Office of the mailing to

a postmaster of a statement of his account and that payment of the balance stated has not been received shall be sufficient evidence of a demand notwithstanding any allowances or credits subsequently made. A copy of such statement shall be attached to the certificate.

(June 25, 1948, ch. 646, 62 Stat. 948.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 670 (R.S. § 890; June 10, 1921, ch. 18, § 301, 42 Stat. 23).

Provisions in section 670 of title 28, U.S.C., 1940 ed., that the statement should recite that a letter has been mailed to a described post office and sufficient time has elapsed for it to have reached its destination, was omitted as superfluous.

The last clause of section 670 of title 28, U.S.C., 1940 ed., was omitted as covered by the phrase “notwithstanding any allowances or credits subsequently made” in the revised section.

Changes were made in phraseology.

TRANSFER OF FUNCTIONS

The office of Postmaster General of the Post Office Department was abolished and all functions, powers, and duties of the Postmaster General were transferred to the United States Postal Service by Pub. L. 91-375, § 4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see rule 44, Appendix to this title.

Effect of rule 44 on former section 670 of this title, see note by Advisory Committee under rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proof of official records, see rule 27, and note of the Advisory Committee under rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1744. Copies of United States Patent and Trademark Office documents, generally

Copies of letters patent or of any records, books, papers, or drawings belonging to the United States Patent and Trademark Office and relating to patents, authenticated under the seal of the United States Patent and Trademark Office and certified by the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, or by another officer of the United States Patent and Trademark Office authorized to do so by the Director, shall be admissible in evidence with the same effect as the originals.

Any person making application and paying the required fee may obtain such certified copies.

(June 25, 1948, ch. 646, 62 Stat. 948; May 24, 1949, ch. 139, § 92(c), 63 Stat. 103; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(b)(15)(B), (C)], Nov. 29, 1999, 113 Stat. 1536, 1501A-584.)

HISTORICAL AND REVISION NOTES

Based on section 127 of title 15, U.S.C., 1940 ed., Commerce and Trade, and title 28, U.S.C., 1940 ed., § 673 (R.S. § 892; Mar. 19, 1920, ch. 104, § 7, 41 Stat. 535; Mar. 4, 1925, ch. 535, § 2, 43 Stat. 1269).

For purposes of uniformity, words “written or printed,” at the beginning of the section, were omitted. Similar sections in this chapter do not contain such words.

Words “or in his name attested by a chief of division duly designated by the commissioner,” after “Commissioner of Patents,” were omitted as unnecessary.

Changes in phraseology were made.

AMENDMENTS

1999—Pub. L. 106-113 substituted “United States Patent and Trademark Office” for “Patent Office” wherever appearing in section catchline and text and in text substituted “Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office” for “Commissioner of Patents” and “Director” for “Commissioner”.

1949—Act May 24, 1949, substituted “patents” after “relating to” for “registered trade-marks, labels, or prints”, and inserted “or by another officer of the Patent Office authorized to do so by the Commissioner” after “Commissioner of Patents”.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106-113, set out as a note under section 1 of Title 35, Patents.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official record, see rule 44, Appendix to this title.

Effect of rule 44 on former section 673 of this title, see note by Advisory Committee under rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proof of official records, see rule 27, and note of the Advisory Committee under rule 44, Title 18, Appendix, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1745 of this title.

§ 1745. Copies of foreign patent documents

Copies of the specifications and drawings of foreign letters patent, or applications for foreign letters patent, and copies of excerpts of the official journals and other official publications of foreign patent offices belonging to the United States Patent and Trademark Office, certified in the manner provided by section 1744 of this title are prima facie evidence of their contents and of the dates indicated on their face.

(June 25, 1948, ch. 646, 62 Stat. 948, § 1746; renumbered § 1745, May 24, 1949, ch. 139, § 92(e), 63 Stat. 103; Pub. L. 88-619, § 7(a), Oct. 3, 1964, 78 Stat. 996; amended Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(b)(16)], Nov. 29, 1999, 113 Stat. 1536, 1501A-585.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 674 (R.S. § 893). Changes were made in phraseology.

PRIOR PROVISIONS

A prior section 1745, act June 25, 1948, ch. 646, 62 Stat. 948, related to printed copies of patent specifications and drawings, prior to repeal by act May 24, 1949, ch. 139, § 92(d), 63 Stat. 103.

AMENDMENTS

1999—Pub. L. 106-113 substituted “United States Patent and Trademark Office” for “United States Patent Office”.

1964—Pub. L. 88-619, among other changes, inserted “or applications for foreign letters patent, and copies of excerpts of the official journals and other official publications of foreign patent offices belonging to the United States Patent Office” in text, and substituted “documents” for “specifications and drawings” in section catchline.

1949—Act May 24, 1949, renumbered section 1746 of this title as this section.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of Title 35, Patents.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see rule 44, Appendix to this title.

Effect of rule 44 on former section 675 of this title, see note by Advisory Committee under rule 44.

FEDERAL RULES OF CRIMINAL PROCEDURE

Proof of official records, see rule 27, and note of the Advisory Committee under rule 27, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1746. Unsworn declarations under penalty of perjury

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States: “I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date).

(Signature)”.

(2) If executed within the United States, its territories, possessions, or commonwealths: “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(Signature)”.

(Added Pub. L. 94-550, §1(a), Oct. 18, 1976, 90 Stat. 2534.)

PRIOR PROVISIONS

A prior section 1746 was renumbered section 1745 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 8 sections 1183a, 1225, 1357; title 10 section 931; title 18 sections 152, 1546, 1621, 1623; title 25 section 399.

CHAPTER 117—EVIDENCE; DEPOSITIONS

Sec.

- 1781. Transmittal of letter rogatory or request.
- 1782. Assistance to foreign and international tribunals and to litigants before such tribunals.
- 1783. Subpoena of person in foreign country.
- 1784. Contempt.
- [1785. Repealed.]

AMENDMENTS

1964—Pub. L. 88-619, §§8(b), 9(b), 10(b), 12(b), Oct. 3, 1964, 78 Stat. 997, 998, substituted “Transmittal of letter

rogatory or request” for “Foreign witnesses” in item 1781, “Assistance to foreign and international tribunals and to litigants before such tribunals” for “Testimony for use in foreign countries” in item 1782, “person” for “witness” in item 1783, and struck out item 1785 “Privilege against incrimination”.

DEPOSITIONS IN ADMIRALTY CASES

Prior to the general unification of civil and admiralty procedure and the rescission of the Admiralty Rules on July 1, 1966, Revised Statutes §§863 to 865, as amended, which related to depositions de bene esse, when and how taken, notice, mode of taking, and transmission to court, provided as follows:

“SEC. 863. The testimony of any witness may be taken in any civil cause depending in a district court by deposition de bene esse, when the witness lives at a greater distance from the place of trial than one hundred miles, or is bound on a voyage to sea, or is about to go out of the United States, or out of the district in which the case is to be tried, and to a greater distance than one hundred miles from the place of trial, before the time of trial, or when he is ancient and infirm. The deposition may be taken before any judge of any court of the United States, or any clerk of a district court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the cause. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition, to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition; and in all cases in rem, the person having the agency or possession of the property at the time of seizure shall be deemed the adverse party, until a claim shall have been put in; and whenever, by reason of the absence from the district and want of an attorney of record or other reason, the giving of the notice herein required shall be impracticable, it shall be lawful to take such depositions as there shall be urgent necessity for taking, upon such notice as any judge authorized to hold courts in such district shall think reasonable and direct. Any person may be compelled to appear and depose as provided by this section, in the same manner as witnesses may be compelled to appear and testify in court.

“SEC. 864. Every person deposing as provided in the preceding section [R.S. §863] shall be cautioned and sworn to testify the whole truth, and carefully examined.

“His testimony shall be reduced to writing or typewriting by the officer taking the deposition, or by some person under his personal supervision, or by the deponent himself in the officer's presence, and by no other person, and shall, after it has been reduced to writing or typewriting, be subscribed by the deponent. [As amended May 23, 1900, ch. 541, 31 Stat. 182.]

“SEC. 865. Every deposition taken under the two preceding sections [R.S. §§863, 864] shall be retained by the magistrate taking it, until he delivers it with his own hand into the court for which it is taken; or it shall, together with a certificate of the reasons as aforesaid of taking it and of the notice, if any, given to the adverse party, be by him sealed up and directed to such court, and remain under his seal until opened in court. But unless it appears to the satisfaction of the court that the witness is then dead, or gone out of the United States, or to a greater distance than one hundred miles from the place where the court is sitting, or that, by reason of age, sickness, bodily infirmity, or imprisonment, he is unable to travel and appear at court, such deposition shall not be used in the cause.”

R.S. §§863 to 865, as amended, quoted above, were applicable to admiralty proceedings only. Proceedings in bankruptcy and copyright are governed by rule 26 et seq. of Federal Rules of Civil Procedure. See also Rules